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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,999	11/09/2000	Tetsunosuke Fujisaki	YOR919990527US2	5835
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RYAN, MASON & LEWIS, LLP 1300 POST ROAD SUITE 205 FAIRFIELD, CT 06824			EXAMINER SUBRAMANIAN, NARAYANSWAMY	
			ART UNIT 3695	PAPER NUMBER
			MAIL DATE 10/13/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/710,999

**Applicant(s)**

FUJISAKI, TETSUNOSUKE

**Examiner**

Narayanswamy Subramanian

**Art Unit**

3695

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 5, 17, 18, 20, 21 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-5, 17-18, 20-21, 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/C.3)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to applicant's communication of September 9, 2010. Amendments to claims 1, 2, 4, 17, 18, 20 and 32 have been entered. Claims 1-2, 4-5, 17-18, 20-21 and 32 are pending and have been examined. The rejections and response to arguments are stated below.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-2, 4-5, 17-18, 20-21 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 17 and 32 recite the limitation "wherein a pull market of each market participant is based on one or more push market segments defined by other market participants". It is not clear as to what the Applicants mean by the terms "pull market" and "push market segments". Also it is not clear how the pull market and push market are related to the step of establishing a plurality of market segments in said secondary market. The step of establishing a plurality of market segments in said secondary market will be performed the same way regardless of this limitation. The wherein clause describes the market participant and not the market segment. This limitation is interpreted as non-functional descriptive material describing the market participants that have no bearing on how the steps of the claim are performed.

In general, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does

not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

Dependent claims are rejected by way of dependency on a rejected independent claim.

The rejections below are interpreted in light of the 112, second paragraph rejections above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-5, 17-18, 20-21 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolston (US Patent 6,266,651 B1) in view of Gulati (US Patent 6,778,968 B1) and further in view of Gary (US Patent 6,618,707 B1).

Claims 1, 17 and 32, Woolston teaches a method, a system and an article of manufacture respectively for processing bids in a secondary market, the method comprising the steps of establishing a plurality of market segments in said secondary market, each of said

market segments having at least one market participant (See Woolston Column 1 lines 51-67, the tiers constitute the market segments and used goods imply secondary markets); receiving a bid for one or more goods, said bid including one or more authorized market segments (See Woolston claim 35, receiving bids from retail segment is implied in the disclosure). A system for processing transactions, comprising a memory that stores computer-readable code and a processor operatively coupled to said memory and an article of manufacture comprising a computer readable medium having computer readable code means embodied thereon are inherent in the disclosure of Woolston. The Dictionary of Banking Terms defines "a secondary market as the market where existing loans, .... and other assets are sold to investors, either directly or through an intermediary". Hence the market for used goods and collectibles disclosed in Woolston qualifies as a secondary market.

Woolston does not teach the features wherein the goods are financial securities, wherein a pull market of each market participant is based on one or more push market segments defined by other market participants; dividing by a processor said bid into a plurality of divided bids; posting by said processor each of said divided bids to one or more of said authorized market segments; and comparing by said processor each posted divided bid to other pending bids in one or more of said authorized market segments to identify pending bids that are in proximity to each divided bid. However as discussed in the 112, second paragraph rejection above, the limitation "wherein a pull market of each market participant is based on one or more push market segments defined by other market participants" is interpreted as non-functional descriptive material and hence not given patentable weight.

Gulati teaches the features wherein the goods are financial securities (See the entire disclosure of Gulati particularly Column 1 lines 34-60), dividing by a processor said bid into a plurality of divided bids (See the entire disclosure of Gulati particularly Figures 20-22, Column 9 lines 12-25); posting by said processor each of said divided bids to one or more of said authorized market segments (See the entire disclosure of Gulati particularly Figure 14, Column 16 line 60 – Column 17 line 6).

Both Woolston and Gulati are concerned with the problem of processing transactions involving two parties. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature taught by Gulati to the invention of Woolston. The motivation to combine is that parties to the transaction would have benefited from being able to communicate and negotiate other terms with each other before finalizing the transaction.

Gary teaches the step of comparing by said processor each posted bid to other pending bids in one or more of said authorized market segments to identify pending bids that are in proximity to each bid (See the entire disclosure of Gary especially Figures 4A-5B and associated portions of the specification, Column 16 lines 17-60, Column 17 line 1- Column 18 line 44).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature taught by Gary to the invention of Woolston. The motivation to combine is that it helps in improving liquidity and assuring fair handling of orders (See Gary Column 4 lines 49-51)

Claims 2 and 18, Woolston teaches the steps of preventing one or more of said divided bids from being posted to market participants not in said one or more authorized market

segments (See Woolston Claims 5 and 18, privileges available to only one segment is interpreted to include the step of preventing bids from being posted to market participants not in said one or more authorized market segments). The bids being divided bids is already taught by Gulati.

Claims 4 and 20, Gulati in combination with Gary teaches the step of establishing a communication channel between entities associated with two of said compared bids that are in proximity (See Gulati Column 23 lines 25-60).

Claims 5 and 21, Gary teaches the step wherein two bids are in proximity if they have parameters that are within a given threshold of each other (See the entire disclosure of Gary especially Column 19 line 47- Column 22 line 14, number of ticks is an example of the threshold).

#### ***Response to Arguments***

6. Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are listed on the enclosed PTO-892.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached at (571) 272-6746. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Narayanswamy Subramanian/  
Primary Examiner  
Art Unit 3695

October 6, 2010